

### REMARKS / DISCUSSION OF ISSUES

In the non-final Office action dated June 22, 2009, claims 33-60 are pending in the application. Claims 33, 47, and 60 are independent. Claims 1-32 were previously canceled.

Claim 60 is amended herein to clarify the subject matter defined therein. No new subject matter has been added.

#### 35 U.S.C § 112

Claims 47-59 stand rejected under 35 U.S.C § 112, second paragraph as allegedly being indefinite. The Office action alleges that claims 47-59 recite the phrase "means for" but are modified by some structure, material, or acts recited in the claim.

As per the discussion with the Examiner on August 18, 2009, the Examiner respectfully requested the Applicants to verify that the elements of claim 47 are supported in the specification and agreed to withdraw the rejection provided that the elements in claim 47 are indeed supported in the specification. Support for the elements of claim 47 is found at least at page 5, lines 22-30, and other places, of the specification as originally filed. As such, the Applicants respectfully request the withdrawal of this rejection.

#### 35 U.S.C § 101

On page 5 of the Office action, claim 30 stands rejected under 35 U.S.C § 101 as allegedly being directed to non-statutory subject matter of software, per se.

As clarified with the Examiner during the discussion on August 18, 2009, this rejection applies to claim 60, not claim 30. As per the Examiner's suggestion, this claim is amended to recite the feature of "[a] computer readable storage medium," which is statutory subject matter. As such, the Applicants respectfully request the withdrawal of this rejection.

35 U.S.C § 102

Claims 33-35, 37-49, and 51-60 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by US Publication Number 2003/0018491 to Nakahara et al. (hereinafter referred to as "Nakahara"). The Applicants respectfully disagree and submit that for at least the following reasons, Nakahara does not anticipate claims 33-35, 37-49, and 51-60.

In order for a reference to anticipate a claim, MPEP 2131 requires the reference to teach every element of the claim. According to MPEP 2131, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

It is respectfully submitted that the Office action failed to establish a prima facie case of anticipation.

The Applicants' claim 1 recites, in part,

*binding at least one user to the domain identifier.* Emphasis added.

The Office action alleges that Nakahara at paragraph [0200] discloses the feature of binding at least one user to the domain identifier. The Applicants have fully considered Nakahara in its entirety and respectfully submit that Nakahara does not disclose at least the above mentioned features of claim 1.

Nakahara apparently relates to a content usage device and a network system, and a license information acquisition method for effectively using license information distributed from a server. (Nakahara, Paragraph [0001]). The content usage device apparently comprises a license management unit operable to hold license information that is distributed from outside the content usage device and enables usage of the content. (Paragraph [0007]).

The Office action at page 6 alleges that Nakahara at paragraph [0200] teaches "searcher X" being a user. The Applicants respectfully submit that Nakahara's "searcher X" is not a "user."

Nakahara at paragraph [0120] makes very clear that “. . . searcher X is any of license management units 1a, 2a, and 3a and the content output units 1b, 2b, 3b, and 4b. . . .” This context of “searcher X” is consistently repeated throughout Nakahara in its entirety. For example, see paragraphs [0163], “. . . when the searcher X is a license management unit. . . ,” [0166], “. . . the content output units 1b, 2b, 3b and 4b that is to be the searcher X,” [0172], “. . . when the searcher X is any of the content output units 1b, 2b, 3b and 4b, . . . .”

Nakahara at paragraphs [0199] and [0200] discloses how each license management unit determines whether the searcher X that requests the license information belongs to the user domain identical to the user domain to which the license management unit belongs. This does not mean that the searcher X is a user. At [0200] and throughout Nakahara in its entirety, “searcher X” is either a license management unit or a content output unit.

Nowhere throughout Nakahara is “searcher X” considered to be a user. Nakahara’s disclosure is completely different from the Applicants’ claimed invention because Nakahara does not disclose the feature of binding at least one user to the domain identifier, as set forth in the Applicants’ claim 33. Although Nakahara at [0197] may disclose different usage restrictions may be put on a content usage device 1 for a father’s usage and a content usage device 2 for his son’s usage, and at [0226] apparently discloses user IDs for identifying users that may be registered in advance in association with the function unit IDs, Nakahara does not bind a user to a domain identifier of an Domain. Nakahara’s disclosure in its entirety appears to be directed towards the transfer of server, device, and content information to and from the license management unit, but does not include or suggest the transfer of user information. Therefore, Nakahara is completely different from the Applicants’ claimed invention because Nakahara does not disclose, teach, or even suggest binding at least one user to the domain identifier, as required in the Applicants’ claim 33.

Thus, the Applicants respectfully submit that the rejection of claim 33 under 35 U.S.C. §102(b) is unfounded as per MPEP 2131 and requests the withdrawal of the rejection.

Independent claims 47 and 60, although different from claim 33, include several distinguishing features which applicant applies the above arguments from claim 33. For example, claim 47 is directed to a system for generating an Authorized Domain and includes in part "means for binding at least one device to at least one user by obtaining or generating a Device Owner List," and claim 60 is directed to a computer readable storage medium and includes in part "binding at least one device to at least one user by obtaining or generating a Device Owner List."

The Office action uses substantially the same arguments as set forth with regard to claim 33, alleging that independent claims 47 and 60 are anticipated by Nakahara. The Applicants essentially repeat the above arguments for claim 1 and apply them to the specific features recited in independent claims 47 and 60. As such, the Applicants respectfully submit that claims 47 and 60 are not anticipated by Nakahara and respectfully request the withdrawal of the rejection.

Dependent claims 34, 35, 37-46, 48, 49, and 51-59 ultimately depend upon and incorporate by reference all the features of either one of allowable claims 33 and 47. Furthermore, each dependent claim includes additional distinguishing features. For each dependent claim, the Applicants essentially repeat the above arguments from claim 33 and apply them to the respective dependent claim. Thus, the Applicants respectfully submit that dependent claims 34, 35, 37-46, 48, 49, and 51-59 are allowable at least by virtue of their dependency on an allowable parent claim.

The Applicants respectfully submit that the rejection of claims 33-35, 37-49, and 51-60 under 35 U.S.C. §102(b) has been traversed and should be withdrawn.

#### Rejections under 35 U.S.C § 103

Dependent claims 36 and 50 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Nakahara. The Applicants respectfully traverse this rejection.

Dependent claims 36 and 50 depend ultimately upon allowable claims 33 and 47, respectively, and incorporate by reference all of the respective features of the claim from which they depend, in addition to containing further distinguishing

patentable features. The Applicants essentially repeat the above arguments from claim 33 and apply them to claims 36 and 50. Thus, the Applicants respectfully submit that dependent claims 35 and 50 are allowable at least by virtue of their dependency on an allowable parent claim.

Additionally, MPEP 2142 states:

"[r]ejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 R.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741, 82 USPQ2c 1385, 1396 (2007) (quoting Federal Circuit statement with approval).

The Office action at page 12 simply provides a conclusory statement that it would be obvious to one of ordinary skill in the art to provide Nakahara's Authorized Domain size limitation, where the limitation relates to a maximum number of users. The Office does not provide any explanation or supporting evidence as to why one of ordinary skill in the art would understand why Nakahara's disclosure would also apply to the method for generating an Authorized Domain as claimed. As pointed out above, Nakahara is completely different as compared to the Applicants' system and method for generating an Authorized Domain. No explanation at all is provided as to how this conclusion was reached. The only ground being provided is the Examiner's conclusory statement.

KSR makes clear that rejections on obviousness cannot be sustained by mere conclusory statements; instead KSR requires that an Examiner provide "some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness." (KSR Opinion at p. 14). An Examiner must "identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does," (KSR Opinion at p. 15). And, the Examiner must make "explicit" this rationale of "the apparent reason to combine the known elements in the fashion claimed," including a detailed explanation of "the effects of demands known to the design community or present in the marketplace" and "the background knowledge possessed by a person having

ordinary skill in the art.” (KSR Opinion at p. 14). Anything less than such an explicit analysis may not be sufficient to support a prima facie case of obviousness.

Therefore, the Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. 103(a).

Hence, the withdrawal of the rejection to dependent claims 35 and 50 under 35 U.S.C. § 103(a) and early allowance is respectfully requested.

### Conclusion

In view of the foregoing, the Applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,

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By: /Brian S. Myers/  
Brian S. Myers  
Registration No.: 46,947  
973-401-7157  
For: Kevin C. Ecker  
Registration No.: 43,600  
914-333-9618

**Please direct all correspondence to:**  
Kevin C. Ecker, Esq.  
Philips Intellectual Property & Standards  
P.O. Box 3001  
Briarcliff Manor, NY 10510-8001